IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 34804 of 2005(R)

AGAINST THE ORDER IN EP 124/2004. IN
CS.127/2003 of SUB COURT, MANJERI

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PETITIONERS:

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1. KRISHNAKUMAR MENON, AGED 44 YEARS,
   S/O.PADMINI AMMA, PROPRIETOR,
   M/S.MANASY AGENCIES, OTTAPPALAM.

2. K.PADMINI AMMA, AGED 66 YEARS,
   W/O.LATE K.S.U. NAIR, M/S.MANASY AGENCIES,
   OTTAPPALAM.

3. K.SHOBHANA, AGED 41 YEARS,
   W/O.E.PRASAD, AGED 66 YEARS,
   M/S.AGENCIES, OTTAPALAM.

4. K.NARENDRAKUMAR, AGED 39 YEARS,
   S/O.K.PADMINI AMMA, M/S.MANASY AGENCIES,
   OTTAPPALAM.

BY ADV. SRI.P.RAMAKRISHNAN
SMT.A.K.PREETHA

RESPONDENT:

M/S.DHANALAKSHMI BANK LTD.,
REPRESENTED BY ITS MANAGER,
OTTAPPALAM BRANCH.

BY ADV. SRI.C.K.KARUNAKARAN,SC,DHANALAKSHMI BAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE EP 124/04 IN CS 127/03 ON THE FIELS OF THE SUB COURT, MANJERI.

EXT.P2 : TRUE COPY OF THE OBJECTION DT.29.8.05 IN EP 124/04.

EXT.P3 : TRUE COPY OF THE NOTICE DT.30.08.05 FROM THE RESPONDENT UNDER SECTION 13(13) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

EXT.P4 : TRUE COPY OF THE REPLY DT.20.10.05 FROM THE PETITIONER TO THE RESPONDENT.

EXT.P5 : TRUE COPY OF THE REPLY DT.26.10.05 FROM THE RESPONDENT TO THE PETITIONER.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 34804 OF 2005

Dated this the 12th day of June, 2007

JUDGMENT

Learned counsel for the petitioner submits that the condition imposed by this Court for granting stay in respect of Ext.P3 was very promptly complied with. According to the learned counsel, out of the entire principal amount, Rs.7 lakhs is already paid off. Counsel requested that recovery of further amounts pursuant to Ext.P3 be stayed and the Bank be directed to take an early decision on the application of the petitioner for one time settlement.

2. Sri.C.K. Karunakaran, learned Standing Counsel for the Bank submits that the request in Ext.P4 can not be granted since the petitioner is not eligible for the benefits of the one time settlement scheme. Mr. Karunakaran submits that Ext.P5 is the reply which the Bank had given to Ext.P4. In this way a decision has already been taken on Ext.P4. Whatever that be, since the Bank had received a substantial portion of the decree debt, it is only appropriate that the Bank considers Ext.P4.

Having gone through Ext.P5, I find that the petitioner is called upon to visit the Bank for an amicable settlement of the entire debt. Considering that offer, I direct the petitioner to submit a fresh proposal

to the Bank to pay a precise amount in full and final settlement of the petitioner's remaining liability under the decree. If such request is received by the Bank within two weeks from today, the Bank will consider that request have a discussion on the request with the petitioner and intimate the decision to the petitioner. The above direction will be complied with by the Bank within one month from today. In view of the above directions, all proceedings before the Sub Court pursuant to Ext.P1 application will be kept in abeyance for a period of six more weeks from today. If the settlement does not come true within the aforesaid period, proceedings under Ext.P1 are to continue. Stay as against Ext.P3 is made absolute.

The Writ Petition is disposed of as above. No costs.

PIUS C. KURIAKOSE, JUDGE

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